

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BAKARY CHERIF and KADJALIOU
BARRY, individually and on behalf of all
other persons similarly situated,

Plaintiffs,

- against -

SAMEDAY DELIVERY CORP. and
BENEDITO EWARTON,

Defendants.
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MEMORANDUM & ORDER

13 CV 1341 (RJD) (STL)

DEARIE, District Judge

Before the Court is an appeal from Magistrate Judge Marilyn D. Go's order granting plaintiffs' motion (1) for leave to send notice of this opt-in collective action brought under the Fair Labor Standards Act; (2) to compel defendants to disclose the names, last known addresses, work locations, dates of employment and telephone numbers of potential plaintiffs who were employed by defendant Sameday Delivery Corp. as delivery drivers; and (3) for authorization to post notice and consent forms at locations subject to the Court's approval.

The Court must "modify or set aside any portion of the magistrate's order found to be clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a). A ruling is "clearly erroneous" if the reviewing court has "the definite and firm conviction that a mistake has been committed." Kolesnikow v. Hudson Valley Hosp. Ctr., 622 F. Supp. 2d 98, 121 (S.D.N.Y. 2009). A ruling is "contrary to law" if it "fails to apply or misapplies relevant statutes, case law or rules of procedure." Collens v. City of New York, 222 F.R.D. 249, 251 (S.D.N.Y. 2004).

Defendants claim that Judge Go's order ignores and misinterprets relevant facts, misconstrues the scope of defendants' clientele and operations, and misinterprets relevant case

law. Having reviewed Judge Go's order, the defendants' objections, and the relevant case law, the Court finds no clear error or misapplication of law. I affirm Judge Go's ruling without qualification.

SO ORDERED.

Dated: Brooklyn, New York
May 24, 2016

s/ RJD



RAYMOND J. DEARIE
United States District Judge